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**ATTORNEYS FOR DEFENDANT**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

DEIDRE AGAN,

Plaintiff

vs.

BNSF RAILWAY CO., a  
Delaware corporation,

Defendant

) Cause No.: 1:19-cv-00083-SPW-TJC

) **AFFIDAVIT OF ANTHONY M.  
NICASTRO**

STATE OF Montana )

:ss

County of Yellowstone )


Anthony M. Nicastro, being first duly sworn upon oath and over the age  
of 18 years, hereby deposes and states as follows:

- 1 1. Affiant is an attorney practicing law in Billings, Montana at Knight  
2 Nicastro Mackay, LLC. Affiant represents BNSF Railway Co. in the  
3 above-entitled matter.  
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- 5 2. **Exhibit A** to Defendant's Statement of Undisputed Facts is a true and  
6 accurate copy of Deidre Agan's 2018 Deposition, attached in relevant part.  
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- 8 3. **Exhibit B** to Defendant's Statement of Undisputed Facts is a true and  
9 accurate copy of Scott Weber's Deposition, attached in relevant part.  
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- 11 4. **Exhibit C** to Defendant's Statement of Undisputed Facts is a true and  
12 accurate copy of Keith Samples' Deposition, attached in relevant part.
- 13 5. **Exhibit D** to Defendant's Statement of Undisputed Facts is a true and  
14 accurate copy of Plaintiff's Supplemental Expert Disclosure.  
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- 16 6. **Exhibit E** to Defendant's Statement of Undisputed Facts is a true and  
17 accurate copy of John Hosbach's Deposition, attached in relevant part.  
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- 19 7. **Exhibit F** to Defendant's Statement of Undisputed Facts is a true and  
20 accurate copy of the Affidavit of John Hosbach.
- 21 8. **Exhibit G** to Defendant's Statement of Undisputed Facts is a true and  
22 accurate copy of the Affidavit of Mike Riley, to include pictures attached  
23 as exhibit A.  
24
- 25 9. **Exhibit H** to Defendant's Statement of Undisputed Facts is a true and  
26 accurate copy of Deidre Agan's 2020 Deposition, attached in relevant part.  
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1 DATED this 10th day of September, 2020.

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4 FURTHER AFFIANT SAYETH NAUGHT

5 KNIGHT NICASTRO MACKAY, LLC

6  
7 By:   
8 Anthony M. Nicastro  
9 Attorney for Defendant

10 Subscribed and sworn to me this 10<sup>th</sup> day of September, 2020 by Anthony  
11 M. Nicastro.



HEATHER ANN GENTRY  
NOTARY PUBLIC for the  
State of Montana  
Residing at Billings, Montana  
My Commission Expires  
December 07, 2022

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By:   
Notary Public

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10th day of September, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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KNIGHT NICASTRO MACKAY, LLC

By: /s/ Anthony M. Nicastro  
Anthony M. Nicastro  
*Attorneys for Defendant*